

## **MINUTES**

### **MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN CAROLYN SQUIRES**, on February 16, 2005  
at 3:00 P.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Carolyn Squires, Chairman (D)  
Sen. Joe Balyeat (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mike Cooney (D)  
Sen. Jon Ellingson (D)  
Sen. Jeff Essmann (R)  
Sen. Steven Gallus (D)  
Sen. Rick Laible (R)  
Sen. Dave Lewis (R)  
Sen. Jim Shockley (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Dave Bohyer, Legislative Branch  
Claudia Johnson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 469, 2/8/2005; SB 347, 2/8/2005;  
SB 421, 2/8/2005; SB 420, 2/8/2005;  
SB 418, 2/8/2005  
Executive Action: SB 469; SB 421; SB 420; SB 418; SB  
347; SB 230

**HEARING ON SB 469****Opening Statement by Sponsor:**

**SEN. DUANE GRIMES (R), SD 39**, opened the hearing on **SB 469**, Direct study of feasibility of Capitol annex. **SEN. GRIMES** said there is a fiscal note which he distributed. He said the study that took place in 1985. He received the fiscal note just before the committee hearing. He wasn't happy about the \$1.8 million that Architecture and Engineering (A & E) Division had listed for the cost of the project. **SEN. GRIMES** asked the Committee to respectively pull this bill, because of the fiscal note. He said there isn't time to have another annex bill in this Committee.

**Proponents' Testimony:** None.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:** None.

**Closing by Sponsor:**

**SEN. GRIMES** closed.

**HEARING ON SB 347****Opening Statement by Sponsor:**

**SEN. GREG LIND (D), SD 50**, opened the hearing on **SB 347**, Revise lobbyist reporting. He said that this bill will coordinate the code to correspond with the rules. He stated that the 2003 Legislature passed a bill clarifying lobbying and lobbyist reporting. He said that it had created a loop hole that is attached to rule making. He said that SB 347 will clean up the language in the bill that passed in the 2003 Legislature consistent with rule-making authority, which was original intent of the first legislation of the bill. **SEN. LIND** stated that a person that hires a lobbyist is required to report if they pay that lobbyist more than \$2,150 a year or more. The loop hole in the code allows a person to pay \$2,149, and not have to report.

**Proponents' Testimony:**

**Ann Hedges, Montana Environmental Information Center**, said she worked on this bill last session, and it was passed at the very end with amendments. She said there were a lot of changes to the

lobbyist reporting. She said this bill will fix the loop hole. It was not the intent of **REP. ALAN OLSON** to allow this type of improper behavior in this reporting. She said this bill allow the statute to fit the rules.

**Chris Gallus, representing self**, stated that any confusion that came out of the last legislature this bill clarifies that. He said if person made \$2,150 or more that the person had to report those earnings to the state. He urged the Committee to pass SB 347.

**Opponents' Testimony:** None.

**Informational Testimony:** **Gordie Higgins, Commissioner of Political Practices**, said during the rulemaking process in the last session with the assistance of Rep. Alan Olson, and other individuals, it was the intent of the process to address an individual expending \$2,150 or more on lobbying activities, which was the intent of the state. He offered to answer any questions the Committee may have.

**Questions from Committee Members and Responses:** None.

**Closing by Sponsor:**

SEN. LIND closed.

#### **HEARING ON SB 421**

***{Tape: 1; Side: A; Approx. Time Counter: 8 - 9}***

**Opening Statement by Sponsor:**

SEN. JERRY BLACK (R), SD 14, opened the hearing on **SB 420**, Write-in candidate filing deadline. **SEN. BLACK** informed the Committee that he is presenting this bill on behalf of the Montana Association of Clerks and Recorders. He said the bill states that if there are 450 voters or less that the polling place must be opened no later than noon to 8:00 p.m. or until all the registered electors in any precinct have voted. He said this is a money saving procedure to both counties and precincts that have very few people in the county. He stated that this bill doesn't require that the polling place has to be open before noon, but they must be open no later than noon. He said if the election officials feel the polling place should open earlier they will be able to do so.

**Proponents' Testimony:**

**Robert Throssell, representing the Montana Association of Clerks and Recorders,** said the bill is simple. It moves the number of registered voters from 250 to 400 in precincts that may be open a very short period of time. Instead of the polling place being open from 7:00 a.m. to 8:00 p.m., this would give the election administrators and county commissioners who budget for lights, gas, and etc., to adjust the time it is most convenient for them to be open. He urged a do pass for SB 421.

**Elaine Gravely, Election Deputy, Secretary of State's Office,** said this gives the counties and commissioners flexibility. She urged the Committee for a do pass on SB 421.

*{Tape: 2; Side: B; Approx. Time Counter: 9.5 - 25}*

**Paula Jaconetty, Clerk and Recorder and election administrator for Teton County,** stated by giving Teton County the option of having the polls open no later than noon will be of great benefit for her two precincts. The availability of election judges in her precinct is very short in her county. She has received many calls from people that would be willing to be judges if the polling precinct didn't have to be open before noon. **Ms. Jaconetty** said in the last election she had the judges keep track of the number of people that voted before noon. She said that the one precinct has 389 electors, 62 had voted before noon. The second precinct has 219 electors, and only 11 had voted by noon. She said this flexibility will save Teton County \$200 per precinct per election. She encouraged the Committee to pass SB 421.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. LAIBLE** asked if school elections would fall under this bill. **SEN. BLACK** said that item #3 states that if an election is held, and a school election is held in the same polling place the polling place must be opened and closed at the same time.

**SEN. LAIBLE** asked **Mr. Throssell** how many precincts in Montana have fewer than 400 voters. **Mr. Throssell** stated he didn't know, but said he would get the information to the Committee.

**SEN. COONEY** asked if the Clerks and Recorders will make an effort to advertise and promote early voting so it wouldn't be inconvenient for those that do want to vote early. **Paula**

**Jaconetty** replied that she will be speaking to the election judges, and the committee people, to get that information out. She informed the Committee that she will make every effort to make the information known.

**Closing by Sponsor:**

**SEN. BLACK** closed stating that more people are voting absentee, which seems to be a trend throughout the state, and across the country.

**HEARING ON SB 420**

**Opening Statement by Sponsor:**

**SEN. JERRY BLACK (R), SD 14**, opened the hearing on **SB 420**, Write-in candidate filing deadline. **SEN. BLACK** said that SB 420 changes the deadline from 15 days to 30 days. This will give the Clerks and Recorders more time to prepare the documents, rather than the two weeks prior to the general election time. He said this bill is also in fairness to the candidate that is already on the ballot, such as a candidate that files as a write-in the person already on the ballot wouldn't know nor have time to prepare their campaign materials. Unlike the write-in candidate would have more time to prepare knowing they didn't have to file until two weeks before election. He said this evens the playing field so there will be a fair debate in a campaign before election.

**Proponents' Testimony:**

**Robert Throssell, representing the Montana Association of Clerks and Recorders**, stated by moving the deadline to 30 days instead of the 15 days before election will give the Clerks and Recorders more time to get their paper work done. He referred to page 2, lines 3 and 4 of the bill, which states school election law already exist for write-in candidates who file 26 days before the election. He urged passage fo SB 420.

**Elaine Gravely, Election Deputy, Secretary of State's Office**, said the office rises in support of SB 420. She stated this bill will also give those people voting by absentee more information and a heads up on who the candidates are and what they stand for.

**Mary Ann Harwood, Clerk and Recorder from Toole County**, reiterated testimony heard from Mr. Throssell and Ms. Gravely. She informed the Committee when her office programs their election counting machines they can program the machines to count or not to count the write-in candidate. She stated that the 15

days didn't allow the Clerks and Recorders, and the programmers, much time to program the machines. The programmers run several tests before elections. She reiterated that the absentee voters have more information with the deadline at 30 days, instead of the 15 days. **Ms. Harwood** urged the Committee to pass SB 420.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. BALYEAT** asked about the time-line, and that he didn't understand why the 30 days would give a write-in candidate more time, because there is a line on the ballot for voters to fill in if they so choose. **Mr. Throssell** responded that a lot of times when there isn't a candidate for that position that a ballot doesn't have to be printed. He said with that line for a write-in on the ballot gives the machine the calibration if something is written on that line it could be identified.

**SEN. SHOCKLEY** asked **Mr. Throssell** about the 26 days on page 2 about school elections. **Mr. Throssell** said that is school law, and he didn't know anything about their law. He said that school elections are separate from general elections.

**{Tape: 1; Side: B}**

**SEN. COONEY** asked about the vote tabulating machines being calibrated, and wanted to know when are they tested. **Mr. Throssell** said that different machines are calibrated and tested at various times leading up to the elections. **Vicki Zeier, Clerk and Recorder, Missoula**, responded that the testing has to be published in the newspaper to inform the public that they will be testing the machines. She said this is done a week before elections, then just before elections start the testing is done.

**SEN. COCCHIARELLA** asked if the list of names that is written on the blank line on the ballots is kept for the records. **Ms. Zeier** said not any more. She said the candidate has to file a declaration if they are a write-in for the time allowed.

**Closing by Sponsor:**

**SEN. BLACK** thanked all the election clerks that drove to Helena to support the bill. He urged a do pass for SB 420.

**HEARING ON SB 418**

**Opening Statement by Sponsor: SEN. BOB HAWKS (D), SD 33,** opened the hearing on **SB 418**, Revise Political Action (PAC) Committee PAC contributions for local government elections. He informed the committee that they are beginning to find local elections more contentious with more money flowing, which gives the impression that local elections are being bought. He said there isn't any magic in controlling they type of situation at any level of local government. He said this bill is the first step by laying the guidelines for county and municipal elections. He said that SB 418 does the same thing that the legislators have to do when running for a legislative seat when taking donations and contributions from individuals and groups. He stated that a senatorial district is more like a county-wide race in most cases, and local municipal elections would be more like a representative's district. He said this may not solve some of the contentious lawsuits that are going on in his county over political practice, and this bill may not take care of it. He said that this situation may be something that will need to be worked on over the interim.

***{Tape: 1; Side: B; Approx. Time Counter: 6.8 - 20.3}***

**Proponents' Testimony:**

**Brad Martin, Executive Director of the Montana Democratic Party,** said the Democratic party supports SB 418, and the Party traditionally takes a stand in support of fair and reasonable campaign finance limits of Montana laws. He said this is a reasonable proposal that addresses a concern in an effective way in the election process.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. SHOCKLEY** asked about the finance limits for a candidate.  
**SEN. HAWKS** said that it is a limit of \$650 or \$1,300.

**SEN. ESSMANN** asked about the current dollar limits on city or county offices. **SEN. HAWKS** stated there are no limits only reporting requirements. He didn't feel there would be any increase with this bill.

**SEN. BALYEAT** asked about public service commissioners that go beyond county lines. He wanted to know if there are other

elections that are more than county wide races. He asked if those types of campaigns are included in this bill. **SEN. HAWKS** responded that the guidelines are countywide only or can be less than countywide.

**SEN. COCCHIARELLA** wanted to know what senate election-wide meant. **SEN. HAWKS** said that the intent is to incorporate and be consistent with municipal races. He said some district races could be included with this bill.

**SEN. HAWKS** referred the question to **Dave Bohyer, LSD. Mr. Bohyer** said he concurred with **SEN. HAWKS** comments. **Mr. Bohyer** said the countywide framework that **SEN. HAWKS** was referring to in establishing contribution limits are parallel to a state senator, and anything less than an county wide election, which isn't specifically identified in the same section of law, would be less than a county wide election. He said the House of Representatives can have limits that apply to those offices also. He said this includes mayor, chief executive, and any number of districts that individuals run for that are less than county wide, such as; school boards, and other offices that people run for that are less than county wide.

**SEN. COCCHIARELLA** asked about all the house members that have to run in the large multiple county districts, and if they are included in this legislation. **SEN. HAWKS** replied no, this is language that is included in existing statute. The codes as written for the districts is being used, but the provision in this bill provides for less than countywide. **SEN. COCCHIARELLA** commented that her biggest concern is a senate seat isn't as big as a house seat, but the cost is not just doubled, but tripled or quadrupled. She said house seats that have multiple counties and miles even though there are equal number of people, the cost is huge compared to an urban district that is confined to a small state, and asked if there is anyway this could be addressed in this bill. **SEN. HAWKS** said he has recognized that the guidelines for the districts in Montana are more appropriate for the use he has listed in the bill. He said it isn't his intent to create increased reporting requirements, and didn't want to include anyone under these provisions that is already reporting their campaign expenses.

**SEN. TROPILA** asked **Gordie Higgins, Commissioner of Political Practices**, if there is any campaign limits from PACS, because the minute people hear we have reached or PAC limit they quit sending checks. **Mr. Higgins** said to let him know when that bill is drafted.

*{Tape: 1; Side: B; Approx. Time Counter: 20.3 - 25}*



**Closing by Sponsor:**

**SEN. HAWKS** closed stating this is probably one of those issues that will be repeated time and time again.

**EXECUTIVE ACTION ON SB 469**

*{Tape: 2; Side: A}*

**Motion/Vote:** **SEN. SHOCKLEY** moved that SB 469 BE TABLED. Motion carried unanimously by voice vote. **SEN. ELLINGSON** voted yes by proxy.

**EXECUTIVE ACTION ON SB 421**

*{Tape: 2; Side: A; Approx. Time Counter: 3.8 - 8}*

**Motion:** **SEN. TROPILA** moved that SB 421 DO PASS.

**Discussion:** **SEN. LAIBLE** said he is concerned about the number of districts that this bill will effect. He said if it is moved from 200 to 400 that it will affect the rural areas, which will be limiting the access to the polling places. He said if they just keep to the 200, and change the time would be better.

**SEN. COONEY** asked **Ms. Gravely** if she could get that information to the Committee today.

**SEN. SHOCKLEY** said why don't we just keep it at 200.

**SEN. BALLYEAT** said this will make it harder for some of the people to vote if it is an inconvenience to the election judges.

**SEN. LEWIS** referred the Committee Members to line 13 of the bill, and asked if the Committee can change the word "must" to "may" be open. He said that this will work in some counties, and they should have the option. If there are problems and people complain then allow them to open the doors earlier.

**SEN. COONEY** said that is what this bill is about. It will give the counties the flexibility for polling places that have fewer than 400 people. He stated that the polling places can still be open from 7:00 a.m. until 8:00 p.m.

**SEN. COCCHIARELLA** said this bill could encourage fewer polling places, and force the smaller places to consolidate.

**SEN. COONEY** said all this bill does is increases the number of precincts from 200 to 400. He said it doesn't mean the counties have to do this, but they will have that option. **SEN. COONEY** asked **Ms. Gravely** if she knew how many current precincts of 200 or fewer would choose to be open. **Ms. Gravely** informed the Committee there are 853 precincts in Montana. She stated that the vast majority are open from 7:00 a.m. until 8:00 p.m. She doesn't feel there would be that many precincts that wouldn't be open before noon.

Motion/Vote: **SEN. TROPILA** moved that SB 421 DO PASS. Motion failed 4-6 by roll call vote with **SEN. BALYEAT**, **SEN. COCCHIARELLA**, **SEN. COONEY**, **SEN. ELLINGSON**, **SEN. SQUIRES**, and **SEN. LAIBLE** voting no.

Motion/Vote: **SEN. LAIBLE** moved that SB 421 BE TABLED AND THE VOTE REVERSED. Motion carried 6-4 by roll call vote with **SEN. ESSMANN**, **SEN. LEWIS**, **SEN. SHOCKLEY**, and **SEN. TROPILA** voting no.

#### EXECUTIVE ACTION ON SB 420

*{Tape: 2; Side: A; Approx. Time Counter: 9.4 - 16}*

Motion/Vote: **SEN. TROPILA** moved that SB 420 DO PASS. Motion failed 4-6 by roll call vote with **SEN. BALYEAT**, **SEN. COCCHIARELLA**, **SEN. COONEY**, **SEN. ELLINGSON**, and **SEN. SHOCKLEY** voting aye. **SEN. ELLINGSON** voting aye by proxy.

*{Tape: 2; Side: A; Approx. Time Counter: 16 - 25}*

Motion/Vote: **SEN. SHOCKLEY** moved that SB 420 BE TABLED AND THE VOTE REVERSED. Motion carried 6-4 by roll call vote with **SEN. BALYEAT**, **SEN. COCCHIARELLA**, **SEN. COONEY**, **SEN. ELLINGSON**, and **SEN. SHOCKLEY** voting no. **SEN. ELLINGSON** voting no by proxy.

#### EXECUTIVE ACTION ON SB 418

*{Tape: 2; Side: B}*

Motion/Vote: **SEN. TROPILA** moved that SB 418 DO PASS. Motion carried 9-2 by voice vote with **SEN. BALYEAT** and **SEN. LAIBLE** voting no.

#### EXECUTIVE ACTION ON SB 347

*{Tape: 2; Side: B; Approx. Time Counter: 3 - 5}*

Motion/Vote: SEN. TROPILA moved that SB 347 DO PASS. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 230

*{Tape: 2; Side: B; Approx. Time Counter: 6 - 9}*

Motion/Vote: SEN. BALYEAT moved that SB 230 DO PASS. Motion failed 5-6 by roll call vote with SEN. BALYEAT, SEN. ESSMANN, SEN. GALLUS, SEN. LAIBLE, and SEN. SHOCKLEY voting aye.

Motion/Vote: SEN. COCCHIARELLA moved that SB 230 BE TABLED AND THE VOTE REVERSED. Motion carried 6-5 by roll call vote with SEN. BALYEAT, SEN. ESSMANN, SEN. GALLUS, SEN. LAIBLE, and SEN. SHOCKLEY voting no.

ADJOURNMENT

Adjournment: 4:50 P.M.

---

SEN. CAROLYN SQUIRES, Chairman

---

CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

**EXHIBIT ([sts38aad0.TIF](#))**